

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:23-cv-00218-GCM**

S. SHANE SMITH,

Plaintiff,

vs.

**NORTH CAROLINA DEPARTMENT
OF ADULT CORRECTIONS, et al.,**

Defendants.

ORDER

THIS MATTER is before the Court on Plaintiff's Subpoena to EmergeOrtho [Doc. 33-2] and Authorization for Release of Information [Doc. 33-1].

Pro se Plaintiff S. Shane Smith ("Plaintiff") is a prisoner of the State of North Carolina currently housed at Foothills Correctional Institution ("Foothills") in Morganton, North Carolina. He filed this action in the Eastern District of North Carolina on November 16, 2022, against Defendants North Carolina Department of Adult Corrections (NCDAC); Todd Ishee, the NCDAC Secretary; John/Jane Doe, the Americans with Disabilities Act (ADA) Coordinator; and Teresa Jardon, the Foothills Warden, claiming that Defendants violated his rights under the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101, et seq., and the Rehabilitation Act of 1973 ("Rehab Act"). [Doc. 1]. The case was transferred here, and, on September 25, 2023, Plaintiff's Amended Complaint passed initial review in accordance with the Court's Order. [Docs. 12, 15, 16].

Recently, Plaintiff asked the Court to issue a subpoena for his medical records from EmergeOrtho for care he received in June 2022. [Doc. 30]. The Court granted Plaintiff's motion

and ordered the Plaintiff to return the completed Subpoena to the Clerk. [Doc. 31]. Plaintiff has now submitted the Subpoena, along with an Authorization for Release of Information, for service by the U.S. Marshal.¹ [Docs. 33-1, 33-2]. The Court, therefore, will direct the Clerk to issue the Subpoena and order the U.S. Marshal to serve it in accordance with Rule 45(b) of the Federal Rules of Civil Procedure.

ORDER

IT IS, THEREFORE, ORDERED that the Clerk shall **ISSUE** the Subpoena at Docket No. 33-2.

IT IS FURTHER ORDERED that the U.S. Marshal shall **SERVE** the Subpoena at Docket No. 33-2, together with the Authorization for Release of Information at Docket No. 33-1, for the Plaintiff in accordance with Rule 45(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

Signed: April 26, 2024



Graham C. Mullen
United States District Judge



¹ As noted by Plaintiff, he failed to complete “all sections of the subpoena form,” leaving blank the place and time of service of the requested records. [Doc. 33; see Doc. 33-2]. Plaintiff should have completed this section of the Subpoena, directing EmergeOrtho to send his records to his current address by some certain date. Hopefully this omission will not further delay Plaintiff’s receipt of the records he requests.